

# HOUSE BILL No. 1622

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1-37.

**Synopsis:** Advanced renewable energy tariffs. Requires a person that operates an electric grid to: (1) provide priority interconnections between renewable energy facilities and the grid operator's grid; (2) transmit on a priority basis electricity generated by renewable energy facilities that are connected to its grid; and (3) perform necessary grid upgrades to enable the interconnection of renewable energy facilities. Provides that the costs associated with connecting a renewable energy facility to a grid shall be borne by the operator of the renewable energy facility (facility operator). Provides that the costs of any necessary grid updates shall be borne by the grid operator. Requires an energy utility to enter into a contract for the purchase of electricity generated by a renewable energy facility upon the request of the facility operator. Provides that the contract must be for a term of at least 20 years and must require the energy utility to purchase electricity from the renewable energy facility: (1) on a priority basis; and (2) at a rate that is not less than the applicable renewable energy rate at the time the contract is entered into. Requires the utility regulatory commission (IURC) to develop and make available a standard contract for use by energy utilities in entering into contracts with facility operators. Provides that an energy utility's obligation to enter into a contract with a facility operator ends after June 30, 2029. Sets forth specific renewable energy rates for electricity generated from the following renewable energy resources: (1) Hydropower. (2) Landfill gas or sewage treatment gas. (3) Biogas. (4) Geothermal energy. (5) Wind energy. (6) Solar energy. Beginning in 2011, requires the IURC to review renewable energy rates every two years to determine if the rates

(Continued next page)

**Effective:** Upon passage.

**Pierce**

January 16, 2009, read first time and referred to Committee on Commerce, Energy, Technology and Utilities.



C  
o  
p  
y

reflect the price needed for the profitable development of renewable energy facilities in Indiana. Provides that if the IURC determines that the rates do not reflect the price needed for the profitable development of renewable energy facilities in Indiana, the IURC may, upon public notice and opportunity for hearing, adjust the rates to reflect a level of profitability that: (1) ensures the rapid deployment of renewable electricity generation; and (2) does not result in excessive profits for facility operators or unnecessary costs to ratepayers. Provides that any rate adjustments made by the IURC apply only to contracts that are entered into after the date of the IURC's order adjusting the rates. Provides that if a facility operator that enters or seeks to enter into a purchase contract with an energy utility receives any federal tax incentives or other benefits available for renewable electricity generation, the renewable energy rate that would ordinarily apply must be reduced by an amount that reflects the tax incentives or benefits received. Requires the IURC to establish a method or formula for proportionally reducing renewable energy rates to account for the federal incentives and benefits received by facility operators. Beginning in 2010, requires each energy utility that purchased electricity under contracts with facility operators during the previous calendar year to annually report the following information to the IURC: (1) The total amount of electricity purchased under all of the utility's contracts with facility operators. (2) The price paid for the electricity purchased under the contracts. (3) The total amount of electricity supplied by the utility to all its Indiana customers. Requires the IURC to compile the information submitted by the energy utilities and determine: (1) a statewide ratio of the total amount of electricity purchased under all renewables contracts by all energy utilities, to the total amount of electricity supplied to Indiana customers by the purchasing energy utilities; and (2) for each purchasing energy utility, an individual ratio of the energy utility's total purchases under all the utility's renewables contracts, to the total amount of electricity supplied by the energy utility to all its Indiana customers. Provides that if an energy utility's individual ratio is less than the statewide ratio, the energy utility must pay to the IURC an equalization charge that reflects the difference between the statewide ratio and the energy utility's ratio. Provides that if an energy utility's individual ratio is greater than the statewide ratio, the IURC must remit to the energy utility an equalization payment that reflects the difference between the energy utility's ratio and the statewide ratio. Establishes the renewable energy equalization fund to be administered by the IURC to receive equalization charges and disburse equalization payments. Requires the IURC to establish a statewide registry of all renewable energy facilities that enter into contracts with energy utilities after June 30, 2009. Requires the IURC to record in the registry certain information with respect to each facility. Requires the state utility forecasting group to include certain information in its annual report on renewable energy resources in Indiana. Makes an appropriation.

**C  
o  
p  
y**



Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE BILL No. 1622

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 8-1-37 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
3 PASSAGE]:

4 **Chapter 37. Advanced Renewable Energy Tariffs**

5 **Sec. 1. (a) The general assembly makes the following findings:**

6 **(1) The development of a robust and diverse portfolio of**  
7 **electric generating capacity, including the use of renewable**  
8 **energy resources, is necessary if Indiana is to continue to be**  
9 **successful in attracting new businesses and jobs.**

10 **(2) It has been demonstrated that the payment of minimum**  
11 **renewable energy rates for electricity generated from**  
12 **renewable energy resources:**

13 **(A) ensures a sound, long term investment for industries,**  
14 **companies, and individuals investing in renewable energy**  
15 **technologies; and**



C  
O  
P  
Y

(B) creates strong economic incentives for those industries, companies, and individuals to make the necessary capital and job creating investments in renewable energy technologies in those jurisdictions that provide such incentives.

(3) Indiana has considerable renewable energy resources that could support the development of new electricity generation.

(4) It is in the public interest for the state to encourage the rapid and sustainable development of renewable energy resources for the generation of electricity in Indiana.

(5) The rapid and sustainable development of renewable energy resources for the generation of electricity will benefit the health, safety, morals, and welfare of Indiana and its citizens by doing the following:

(A) Stimulating the development of new technologies and industries in Indiana and creating new jobs to serve those emerging industries.

(B) Placing Indiana at the forefront of the nation's renewable energy revolution.

(C) Creating an Indiana marketplace for the development of and investments in renewable energy resources and technologies.

(D) Opening renewable electricity generation, and the economic opportunities that accompany such generation, to all Indiana citizens.

(E) Providing equitable opportunities for all Indiana citizens to help grow Indiana's renewable energy industry.

(F) Reducing the price volatility and long term costs of electricity.

(G) Reducing air and water pollution and related health problems and health care expenditures.

(H) Protecting Indiana's natural resources.

(I) Reducing greenhouse gas emissions into the atmosphere.

(b) The purpose of this chapter is to:

(1) strengthen Indiana's economy by attracting new businesses and jobs in the growing renewable energy industry; and

(2) enable the rapid and sustainable development of renewable energy resources for the generation of electricity in Indiana by:

(A) providing for priority interconnections of renewable

C  
o  
p  
y



energy facilities to electric grids, including the necessary grid upgrades to allow those interconnections;

(B) providing for priority purchases by energy utilities of electricity generated by renewable energy facilities;

(C) establishing minimum renewable energy rates for purchases described in clause (B) to ensure that the prices paid for the electricity are adequate to ensure the profitable development of renewable energy facilities; and

(D) establishing a statewide equalization system for distributing the costs of the purchases described in clause (B).

Sec. 2. As used in this chapter, "capacity", with respect to a renewable energy facility, means the effective electrical capacity that the renewable energy facility may produce without time restrictions during regular operation and not including short term deviations.

Sec. 3. As used in this chapter, "energy utility" means a public utility or a municipally owned utility within the meaning of IC 8-1-2-1, or a local district corporation or a general district corporation within the meaning of IC 8-1-13-23, engaged in the production, transmission, delivery, or furnishing of electricity.

Sec. 4. As used in this chapter, "facility operator" means a person that owns, operates, manages, or controls a renewable energy facility.

Sec. 5. As used in this chapter, "grid" means interconnected facilities used for the transmission and distribution of electricity for general supply.

Sec. 6. As used in this chapter, "grid operator" means:

- (1) an energy utility; or
- (2) another person;

that owns or operates any part of a grid.

Sec. 7. As used in this chapter, "grid upgrade" means any additions or modifications to a grid that are made:

- (1) at or beyond the point at which a renewable energy facility interconnects to the grid; and
- (2) to accommodate electricity generated by the renewable energy facility and delivered to the grid.

Sec. 8. (a) As used in this chapter, "renewable energy facility" means a facility that:

- (1) is located in Indiana;
- (2) generates electricity solely from a renewable energy resource; and

C  
o  
p  
y



(3) is capable of providing electricity directly to a grid.

(b) The term includes the following:

(1) An alternate energy production facility (as defined in IC 8-1-2.4-2(b)) that generates electricity from a renewable energy resource set forth in section 10 of this chapter.

(2) A small hydro facility (as defined in IC 8-1-2.4-2(e)).

(c) The term does not include a cogeneration facility (as defined in IC 8-1-2.4-2(c)).

Sec. 9. As used in this chapter, "renewable energy rate" means a rate that:

(1) an energy utility pays for electricity under a contract entered into under section 12 of this chapter with a facility operator; and

(2) at the time the contract is entered into, applies to the particular renewable energy resource used to generate the electricity sold to the energy utility under the contract, as determined under sections 13 through 18 of this chapter and most recently adjusted under section 20 of this chapter.

Sec. 10. As used in this chapter, "renewable energy resource" means any of the following sources for the generation of electricity:

(1) Wind energy.

(2) Solar energy.

(3) Hydropower from existing dams.

(4) Geothermal energy.

(5) Energy from biomass, including biogas, landfill gas, and sewage treatment gas.

Sec. 11. (a) After June 30, 2009, a grid operator shall:

(1) provide priority interconnections between renewable energy facilities and the grid operator's grid; and

(2) transmit on a priority basis electricity generated by any renewable energy facilities that are connected to its grid.

(b) A grid operator has the duty to interconnect a particular renewable energy facility under this section if:

(1) the grid operator provides transmission or distribution service in a retail electric service area that includes the renewable energy facility;

(2) the grid operator controls or operates grid facilities technically suitable to receive electricity from the renewable energy facility; and

(3) there is no other grid with a technically and economically more suitable connection point.

(c) For purposes of subsection (b)(2), a grid is considered

C  
o  
p  
y



1 technically suitable to receive electricity from a renewable energy  
 2 facility even if feeding in the electricity produced by the renewable  
 3 energy facility requires the grid operator to perform grid  
 4 upgrades. If a grid operated or controlled by a grid operator  
 5 requires grid upgrades to enable a renewable energy facility to feed  
 6 in electricity to the grid, the grid operator shall perform the  
 7 required grid upgrades without undue delay, upon the request of  
 8 the facility operator seeking to connect a renewable energy facility  
 9 to the grid operator's grid. The obligation to upgrade a grid under  
 10 this subsection includes the obligation to upgrade:

11 (1) all technical facilities that are:

12 (A) required for operating the grid; and

13 (B) needed for the interconnection; and

14 (2) all connecting installations that are needed for the  
 15 interconnection;

16 that are owned or passed into ownership of the grid operator.

17 (d) A grid operator's obligation to provide priority  
 18 interconnection to a renewable energy facility under this section  
 19 applies even if the capacity of the grid operator's grid is entirely  
 20 taken up by interconnections with other renewable energy  
 21 facilities, unless the grid operator does not have a technical facility  
 22 for reducing feed-in to the grid in the event of a system overload.

23 (e) The costs associated with:

24 (1) connecting a renewable energy facility to the technically  
 25 and economically most suitable connection point on a grid;  
 26 and

27 (2) installing the necessary measuring devices for recording  
 28 the quantity of electricity transmitted and received by the  
 29 renewable energy facility;

30 shall be borne by the facility operator. For purposes of this  
 31 subsection, if one (1) or more renewable energy facilities with a  
 32 total capacity not exceeding thirty (30) kilowatts is located on a  
 33 plot of land that already has a connection to the grid operator's  
 34 grid, that connection is considered the most suitable connection  
 35 point. If the grid operator establishes a new connection point for  
 36 the renewable energy facilities, the grid operator shall bear the  
 37 resulting incremental cost.

38 (f) The costs associated with any grid upgrades required under  
 39 subsection (c) shall be borne by the grid operator making the  
 40 upgrades. The grid operator may take into account the costs of any  
 41 upgrades made when determining any charges for the use of the  
 42 grid by the renewable energy facility for which the upgrades are

C  
O  
P  
Y



made.

(g) Whenever a renewable energy facility is connected to a grid under this section, the connection and any other installations required for the safe operation of the grid must meet the renewable energy facility's technical requirements. A facility operator may have:

- (1) the connection; and
  - (2) the installation of any measuring devices for recording the quantity of electricity transmitted and received by the renewable energy facility;
- performed by the grid or a third party.

Sec. 12. (a) Except as provided in subsection (e), after June 30, 2009, an energy utility shall, upon the request of a facility operator, enter into a contract for the purchase of electricity generated by the facility operator's renewable energy facility. A contract under this section must:

- (1) be for a term of at least twenty (20) years; and
  - (2) require the energy utility to purchase electricity from the renewable energy facility:
    - (A) on a priority basis; and
    - (B) subject to subsection (d) and section 21 of this chapter, at a rate that is not less than the applicable renewable energy rate that:
      - (i) applies with respect to the particular renewable resource used by the renewable energy facility; and
      - (ii) is in effect under sections 13 through 18 of this chapter, as most recently adjusted under section 20 of this chapter, at the time the contract is entered into;
- throughout the term of the contract.

(b) An energy utility shall offer a standard contract, on a form prescribed by the commission under subsection (c), to a facility operator that seeks to enter into a contract with the energy utility under this section. A standard contract offered under this subsection must set forth:

- (1) the rate to be paid for each kilowatt hour of electricity purchased under the contract;
- (2) the adjustments to be made to the rate to account for inflation, as prescribed by subsection (d);
- (3) the duration of the contract; and
- (4) any information concerning the renewable energy facility required by the commission for the statewide registry established under section 24 of this chapter.

C  
o  
p  
y



Each party to the contract shall sign the contract and retain a signed duplicate original of the contract. The energy utility shall submit a copy of the signed contract to the commission not later than seven (7) business days after the contract is signed by both parties.

(c) Not later than June 15, 2009, the commission shall develop and make available a standard contract form for use by energy utilities in entering into contracts with facility operators under this section. The form prescribed by the commission must require the parties to set forth the information described in subsection (b)(1) through (b)(4).

(d) Beginning on the date that is one (1) year after the date on which a contract entered into under this section is signed by the parties, each year during the term of the contract the rate set forth in the contract under subsection (b)(1) increases by a percentage that is not less than the product of:

- (1) the percent increase in the United States Department of Labor Consumer Price Index during the previous calendar year; multiplied by
- (2) six-tenths (0.6).

(e) An energy utility's obligation to enter into a contract with a facility operator under this section does not apply if:

- (1) the capacity of the grid in the electric service area that:
  - (A) includes the facility operator's renewable energy facility; and
  - (B) is served by the energy utility;
 is entirely taken up by electricity generated by other renewable energy facilities that were connected to the grid before the connection or proposed connection of the facility operator's renewable energy facility; and
- (2) the energy utility has no ability to transmit any electricity generated by the facility operator's renewable energy facility to:
  - (A) an energy utility; or
  - (B) a grid operator;
 in an adjacent electric service area.

However, this subsection does not affect a grid operator's duty under section 11(c) of this chapter to perform any required grid upgrades without undue delay.

(f) Subsection (a)(2)(B) does not preclude an energy utility and a facility operator from entering into a contract under this section in which the rate for the electricity purchased under the contract

**C**  
**O**  
**P**  
**Y**



is greater than the applicable renewable energy rate set forth in sections 13 through 18 of this chapter, as most recently adjusted under section 20 of this chapter.

(g) An energy utility's obligation to enter into a contract with a facility operator under this section ends after June 30, 2029. However, an energy utility may enter into a contract to purchase electricity from a renewable energy facility under:

- (1) the terms set forth in this section; or
- (2) any other terms;

at any time.

Sec. 13. The renewable energy rate for electricity generated from a renewable energy facility that uses hydropower to generate electricity:

- (1) must be based on the price needed for development plus a reasonable profit, as determined by the size of the facility; and
- (2) subject to sections 20 and 21 of this chapter, may not be less than:

(A) ten cents (\$0.10) per kilowatt hour, if the electricity is generated by a renewable energy facility with a capacity of less than five hundred (500) kilowatts;

(B) eight and one-half cents (\$0.085) per kilowatt hour, if the electricity is generated by a renewable energy facility with a capacity of at least five hundred (500) kilowatts but less than ten (10) megawatts; or

(C) six and one-half cents (\$0.065) per kilowatt hour, if the electricity is generated by a renewable energy facility with a capacity of at least ten (10) megawatts but less than twenty (20) megawatts.

Sec. 14. The renewable energy rate for electricity generated from a renewable energy facility that uses landfill gas or sewage treatment gas to generate electricity:

- (1) must be based on the price needed for development plus a reasonable profit, as determined by the size of the facility; and
- (2) subject to sections 20 and 21 of this chapter, may not be less than:

(A) ten cents (\$0.10) per kilowatt hour, if the electricity is generated by a renewable energy facility with a capacity of less than five hundred (500) kilowatts; or

(B) eight and one-half cents (\$0.085) per kilowatt hour, if the electricity is generated by a renewable energy facility with a capacity of at least five hundred (500) kilowatts.

Sec. 15. The renewable energy rate for electricity generated

C  
o  
p  
y



from a renewable energy facility that uses biogas to generate electricity:

- (1) must be based on the price needed for development plus a reasonable profit, as determined by the size of the facility; and
- (2) subject to sections 20 and 21 of this chapter, may not be less than:

(A) fourteen and one-half cents (\$0.145) per kilowatt hour, if the electricity is generated by a renewable energy facility with a capacity of less than one hundred fifty (150) kilowatts;

(B) twelve and one-half cents (\$0.125) per kilowatt hour, if the electricity is generated by a renewable energy facility with a capacity of at least one hundred fifty (150) kilowatts but less than five hundred (500) kilowatts;

(C) eleven and one-half cents (\$0.115) per kilowatt hour, if the electricity is generated by a renewable energy facility with a capacity of at least five hundred (500) kilowatts but less than five (5) megawatts; or

(D) ten and one-half cents (\$0.105) per kilowatt hour, if the electricity is generated by a renewable energy facility with a capacity of at least five (5) megawatts but less than twenty (20) megawatts.

**Sec. 16. The renewable energy rate for electricity generated from a renewable energy facility that uses geothermal energy to generate electricity:**

- (1) must be based on the price needed for development plus a reasonable profit, as determined by the size of the facility; and
- (2) subject to sections 20 and 21 of this chapter, may not be less than:

(A) nineteen cents (\$0.19) per kilowatt hour, if the electricity is generated by a renewable energy facility with a capacity of less than five (5) megawatts;

(B) eighteen cents (\$0.18) per kilowatt hour, if the electricity is generated by a renewable energy facility with a capacity of at least five (5) megawatts but less than ten (10) megawatts;

(C) eleven and one-half cents (\$0.115) per kilowatt hour, if the electricity is generated by a renewable energy facility with a capacity of at least ten (10) megawatts but less than twenty (20) megawatts; or

(D) nine cents (\$0.09) per kilowatt hour, if the electricity is generated by a renewable energy facility with a capacity of

**C  
o  
p  
y**



at least twenty (20) megawatts.

**Sec. 17. (a)** Except as provided in subsection (d), the renewable energy rate for electricity generated from a renewable energy facility that uses wind energy to generate electricity must be based on the price needed for development plus a reasonable profit and must be:

(1) subject to sections 20 and 21 of this chapter, not less than ten and one-half cents (\$0.105) per kilowatt hour during years one (1) through five (5) of a contract entered into under section 12 of this chapter; and

(2) for each year after the sixth year of a contract entered into under section 12 of this chapter:

(A) based on the renewable energy facility's average specific yield in kilowatt hours per square meter per year ( $\text{kwh}/\text{m}^2/\text{year}$ ) of rotor swept area as determined under subsection (b); and

(B) not less than the applicable amount specified in subsection (c).

(b) The average specific yield for a renewable energy facility described in this section equals the amount determined under **STEP FOUR** of the following formula:

**STEP ONE:** Determine the total amount of all electricity generated by the renewable energy facility (including electricity that was generated and not purchased under the contract entered into under section 12 of this chapter), expressed in kilowatt hours, during each of the first five (5) years of the contract entered into under section 12 of this chapter.

**STEP TWO:** Determine the sum of the amounts determined under **STEP ONE**, excluding the amounts for:

(A) the year in which the renewable energy facility generated the greatest amount of electricity; and

(B) the year in which the renewable energy facility generated the least amount of electricity.

**STEP THREE:** Determine the quotient of:

(A) the **STEP TWO** amount; divided by

(B) three (3).

**STEP FOUR:** Determine the quotient of:

(A) the **STEP THREE** amount; divided by

(B) the renewable energy facility's rotor swept area.

(c) Subject to sections 20 and 21 of this chapter, in each year after the sixth year of a contract entered into under section 12 of

**C  
o  
p  
y**



1 this chapter, the renewable energy rate for electricity generated  
 2 from a renewable energy facility that uses wind energy to generate  
 3 electricity may not be less than:

4 (1) ten and one-half cents (\$0.105) per kilowatt hour for a  
 5 renewable energy facility with an average specific yield that  
 6 is less than seven hundred kilowatt hours per square meter  
 7 per year (700 kwh/m<sup>2</sup>/year);

8 (2) eight cents (\$0.08) per kilowatt hour for a renewable  
 9 energy facility with an average specific yield that is greater  
 10 than one thousand one hundred kilowatt hours per square  
 11 meter per year (1,100 kwh/m<sup>2</sup>/year); or

12 (3) a rate that is a linear interpolation between the minimum  
 13 rates set forth in subdivisions (1) and (2) for a renewable  
 14 energy facility with an average specific yield that is:

15 (A) at least seven hundred kilowatt hours per square meter  
 16 per year (700 kwh/m<sup>2</sup>/year); and

17 (B) not greater than one thousand one hundred kilowatt  
 18 hours per square meter per year (1,100 kwh/m<sup>2</sup>/year).

19 (d) This subsection applies to a renewable energy facility that  
 20 uses wind energy to generate electricity and that has a rotor swept  
 21 area that is not greater than one thousand (1,000) square feet. The  
 22 renewable energy rate for electricity generated from a renewable  
 23 energy facility to which this subsection applies:

24 (1) must be based on the price needed for development plus a  
 25 reasonable profit; and

26 (2) subject to sections 20 and 21 of this chapter, may not be  
 27 less than twenty-five cents (\$0.25) per kilowatt hour;

28 throughout the term of the contract entered into under section 12  
 29 of this chapter.

30 Sec. 18. The renewable energy rate for electricity generated  
 31 from a renewable energy facility that uses solar energy to generate  
 32 electricity:

33 (1) must be based on the price needed for development plus a  
 34 reasonable profit, as determined by the size and location of  
 35 the facility; and

36 (2) subject to sections 20 and 21 of this chapter, may not be  
 37 less than:

38 (A) fifty cents (\$0.50) per kilowatt hour, if the electricity is  
 39 generated by:

40 (i) a freestanding renewable energy facility; or

41 (ii) a renewable energy facility that is located in an open  
 42 field;

C  
o  
p  
y



(B) sixty-five cents (\$0.65) per kilowatt hour, if the electricity is generated by a renewable energy facility that:

(i) includes panels or other components that are located on a rooftop; and

(ii) has a capacity of less than thirty (30) kilowatts;

(C) sixty-two cents (\$0.62) per kilowatt hour, if the electricity is generated by a renewable energy facility that:

(i) includes panels or other components that are located on a rooftop; and

(ii) has a capacity of at least thirty (30) kilowatts but less than one hundred (100) kilowatts;

(D) sixty-one cents (\$0.61) per kilowatt hour, if the electricity is generated by a renewable energy facility that:

(i) includes panels or other components that are located on a rooftop; and

(ii) has a capacity of at least one hundred (100) kilowatts;

(E) seventy-one cents (\$0.71) per kilowatt hour, if the electricity is generated by a renewable energy facility that:

(i) makes use of solar facade cladding; and

(ii) has a capacity of less than thirty (30) kilowatts;

(F) sixty-eight cents (\$0.68) per kilowatt hour, if the electricity is generated by a renewable energy facility that:

(i) makes use of solar facade cladding; and

(ii) has a capacity of at least thirty (30) kilowatts but less than one hundred (100) kilowatts; or

(G) sixty-seven cents (\$0.67) per kilowatt hour, if the electricity is generated by a renewable energy facility that:

(i) makes use of solar facade cladding; and

(ii) has a capacity of at least one hundred (100) kilowatts.

Sec. 19. (a) Electricity that is fed into an energy utility's distribution system from more than one (1) renewable energy facility may be measured and billed through a shared metering device. Except as provided in subsection (b), if electricity fed into an energy utility's distribution system from more than one (1) renewable energy facility is measured and billed through a shared metering device, the capacity of each renewable energy facility shall be used in determining the amount of electricity to be apportioned to each renewable energy facility.

(b) If:

(1) electricity is fed into an energy utility's distribution system from more than one (1) renewable energy facility that uses wind energy to generate electricity;

C  
o  
p  
y



(2) the electricity fed in from the renewable energy facilities described in subdivision (1) is measured and billed through a shared metering device; and

(3) at least two (2) of the renewable energy facilities described in subdivision (1) are subject to different renewable energy rates under section 17 of this chapter;

the total amount of electricity measured shall be allocated proportionally among the renewable energy facilities described in subdivision (1) according to their average specific yields.

Sec. 20. (a) Every two (2) years, beginning in 2011, the commission shall review the rates set forth in sections 13 through 18 of this chapter, as most recently adjusted under this section, to determine if the then current rates reflect the price needed for the profitable development of renewable energy facilities in Indiana. In making the determination required under this section, the commission shall consider whether the rates reflect a level of profitability that:

(1) ensures the rapid deployment of renewable sources of electricity generation; and

(2) does not result in:

(A) excessive profits for facility operators; or

(B) unnecessary costs to ratepayers.

In conducting a review required under this subsection, the commission may consult with the state utility forecasting group established under IC 8-1-8.5-3.5.

(b) If, in conducting the review required under subsection (a), the commission determines that the rates set forth in sections 13 through 18 of this chapter, as most recently adjusted under this section, do not reflect the price needed for the profitable development of renewable energy facilities in Indiana, the commission may, upon public notice and opportunity for hearing by interested parties, adjust the then current rates to reflect a level of profitability that:

(1) ensures the rapid deployment of renewable sources of electricity generation; and

(2) does not result in:

(A) excessive profits for facility operators; or

(B) unnecessary costs to ratepayers.

(c) Any rate adjustments made by the commission under subsection (b) apply only to contracts under section 12 of this chapter that are entered into after the date of the commission's order adjusting the rates.

**C**  
**O**  
**P**  
**Y**



1       **Sec. 21. (a) If a facility operator that enters or seeks to enter into**  
 2       **a contract with an energy utility under section 12 of this chapter**  
 3       **receives, at the time of entering into the contract or at any time**  
 4       **during the term of the contract, any federal tax credits or**  
 5       **deductions, or other federal incentives or subsidies (other than any**  
 6       **accelerated depreciation available for tax purposes), that are**  
 7       **available in connection with the generation of electricity from**  
 8       **renewable resources, the applicable renewable energy rate that**  
 9       **would otherwise apply under:**

10       **(1) sections 13 through 18 of this chapter, as most recently**  
 11       **adjusted under section 20 of this chapter, in the case of a**  
 12       **facility operator that seeks to enter into a contract with an**  
 13       **energy utility under section 12 of this chapter; or**

14       **(2) the terms of the contract with the energy utility, in the case**  
 15       **of a facility operator that has already entered into a contract**  
 16       **under section 12 of this chapter;**

17       **must be reduced by a proportional amount to reflect the benefit of**  
 18       **the tax credit or deduction, or other subsidy or incentive, received.**  
 19       **Not later than June 1, 2009, the commission shall establish a**  
 20       **method or formula for proportionally reducing renewable energy**  
 21       **rates to account for the federal benefits described in this**  
 22       **subsection.**

23       **(b) In developing the method or formula required by this**  
 24       **subsection, the commission shall ensure that the resulting reduced**  
 25       **rates reflect a level of profitability that:**

26       **(1) remains adequate to ensure the rapid deployment of**  
 27       **renewable sources of electricity generation; and**

28       **(2) does not result in:**

29               **(A) excessive profits for facility operators; or**

30               **(B) unnecessary costs to ratepayers.**

31       **(c) The commission shall:**

32       **(1) publish the method or formula established under**  
 33       **subsection (a) in the Indiana Register; and**

34       **(2) post the method or formula established under subsection**  
 35       **(a) on the commission's web site;**

36       **not later than July 1, 2009.**

37       **(d) Notwithstanding subsection (a), a facility operator that**  
 38       **enters or seeks to enter into a contract with an energy utility under**  
 39       **section 12 of this chapter may, at the time of entering into the**  
 40       **contract or at any time during the term of the contract, claim and**  
 41       **receive either of the following without a reduction in the applicable**  
 42       **renewable energy rate under sections 13 through 18 of this**

**C**  
**O**  
**P**  
**Y**



chapter, as most recently adjusted under section 20 of this chapter, or under the terms of the contract with energy utility, whichever applies:

(1) State tax credits, state tax deductions, or other state incentives or subsidies that are available in connection with the generation of electricity from renewable resources, if not otherwise prohibited by the state law, rule, or program establishing the incentives.

(2) Incentives offered by an energy utility in connection with the generation of electricity from renewable resources, if not otherwise prohibited by the energy utility's program establishing the incentives.

(e) An energy utility that enters into a contract with a facility operator under section 12 of this chapter is not exempt from any binding federal or state renewable energy portfolio standard that is or may come into effect during the term of the contract. However, any credit or allowance for renewable electricity generation needed to comply with any federal or state renewable energy portfolio standard belongs to the energy utility that purchases electricity under the contract and may not be claimed by the facility operator supplying the electricity under the contract, unless otherwise specified by federal or state law.

Sec. 22. (a) Beginning in 2010, not later than March 1 of each year, an energy utility that purchased electricity during the immediately preceding calendar year from a facility operator under a contract entered into under section 12 of this chapter shall report to the commission, on a form prescribed the commission, the following information for all the energy utility's contracts under section 12 of this chapter that were in effect during the immediately preceding calendar year:

(1) The total amount of electricity, expressed in kilowatt hours, purchased under all the energy utility's contracts entered into under section 12 of this chapter during the immediately preceding calendar year.

(2) The total amount paid by the energy utility for the electricity described in subdivision (1).

(3) The total amount of electricity, expressed in kilowatt hours, supplied by the energy utility to all its Indiana customers during the immediately preceding calendar year.

(b) Beginning in 2010, not later than July 1 of each year, the commission shall compile the information submitted by all energy utilities under subsection (a) and shall determine the following:

C  
o  
p  
y



(1) The statewide ratio of the total electricity purchased from renewable energy facilities by energy utilities to the total electricity supplied to all Indiana customers by those energy utilities, with respect to the immediately preceding calendar year, determined as follows:

STEP ONE: Determine the sum of all amounts reported by all energy utilities under subsection (a)(1) with respect to the immediately preceding calendar year.

STEP TWO: Determine the sum of all amounts reported by all energy utilities under subsection (a)(3) with respect to the immediately preceding calendar year.

STEP THREE: Determine the quotient of:

(A) the STEP ONE amount; divided by

(B) the STEP TWO amount.

(2) For each energy utility that submitted a report under subsection (a), the ratio of the total electricity purchased from renewable energy facilities by the energy utility to the total electricity supplied to all Indiana customers by the energy utility, with respect to the immediately preceding calendar year, determined by calculating the quotient of:

(A) the amount reported by the energy utility under subsection (a)(1); divided by

(B) the amount reported by the energy utility under subsection (a)(3).

(3) The sum of the amounts reported by all energy utilities under subsection (a)(2).

(c) For each energy utility that submitted a report under subsection (a), the commission shall compare the ratio calculated for the energy utility under subsection (b)(2) to the statewide ratio calculated under subsection (b)(1). If an energy utility's ratio calculated under subsection (b)(2) is less than the statewide ratio calculated under subsection (b)(1), the commission shall assess the energy utility an equalization charge in an amount equal to the difference between:

(1) the product of:

(A) the amount determined by the commission under subsection (b)(3); multiplied by

(B) the statewide ratio calculated by the commission under subsection (b)(1); minus

(2) the product of:

(A) the amount determined by the commission under subsection (b)(3); multiplied by

C  
o  
p  
y



(B) the energy utility's ratio calculated by the commission under subsection (b)(2).

Not later than August 1 of the same year in which the commission makes the calculations described in subsection (b), the commission shall send an energy utility whose ratio calculated under subsection (b)(2) is less than the statewide ratio calculated under subsection (b)(1) a notice of the equalization charge due, as calculated under this subsection. The notice must specify that the equalization charge must be paid to the commission not later than 30 days after the date of the commission's notice, for deposit by the commission in the renewable energy equalization fund established by section 23 of this chapter.

(d) The commission shall immediately deposit all equalization charges received under subsection (c) into the renewable energy equalization fund established by section 23 of this chapter.

(e) If, in comparing the ratio calculated for an energy utility under subsection (b)(2) to the statewide ratio calculated under subsection (b)(1), as required by subsection (c), the commission determines that the energy utility's ratio calculated under subsection (b)(2) is greater than the statewide ratio calculated under subsection (b)(1), the commission shall make an equalization payment to the energy utility in an amount equal to the difference between:

(1) the product of:

(A) the amount determined by the commission under subsection (b)(3); multiplied by

(B) the energy utility's ratio calculated by the commission under subsection (b)(2); minus

(2) the product of:

(A) the amount determined by the commission under subsection (b)(3); multiplied by

(B) the statewide ratio calculated by the commission under subsection (b)(1).

The commission shall remit the equalization payment determined under this subsection to the energy utility not later than November 1 of the same year in which the commission makes the calculations described in subsection (b). An equalization payment remitted to an energy utility under this subsection shall be paid from the renewable energy equalization fund established by section 23 of this chapter.

(f) The commission may adopt rules under IC 4-22-2 to implement this section.

C  
o  
p  
y



1        **Sec. 23. (a) The renewable energy equalization fund is**  
 2        **established to receive equalization charges and disburse**  
 3        **equalization payments under this chapter. The fund shall be**  
 4        **administered by the commission.**

5        **(b) The fund consists of money deposited in the fund by the**  
 6        **commission under section 22(d) of this chapter.**

7        **(c) The treasurer of state shall invest the money in the fund not**  
 8        **currently needed to meet the obligations of the fund in the same**  
 9        **manner as other public funds may be invested.**

10       **(d) Money in the fund at the end of a state fiscal year does not**  
 11       **revert to the state general fund but remains in the fund to be used**  
 12       **exclusively for purposes of this chapter.**

13       **(e) Money in the fund is continuously appropriated for the**  
 14       **purposes of this chapter.**

15       **Sec. 24. (a) Not later than June 1, 2009, the commission shall**  
 16       **establish a statewide registry of all renewable energy facilities that**  
 17       **enter into contracts with energy utilities under section 12 of this**  
 18       **chapter after June 30, 2009. Based on the information contained in**  
 19       **the standard contracts submitted to the commission under section**  
 20       **12(b) of this chapter, and on any information obtained**  
 21       **independently by the commission from a particular facility**  
 22       **operator, the commission shall record in the registry the following**  
 23       **information for each renewable energy facility:**

24            **(1) The facility operator for the renewable energy facility.**

25            **(2) The type of renewable energy resource used by the**  
 26            **renewable energy facility to generate electricity.**

27            **(3) The capacity of the renewable energy facility.**

28            **(4) The location of the renewable energy facility.**

29            **(5) The number of contracts entered into under section 12 of**  
 30            **this chapter under which the renewable energy facility**  
 31            **supplies electricity.**

32            **(6) Any technical specifications concerning the renewable**  
 33            **energy facility that the commission may require.**

34        **(b) The commission shall require a facility operator, or the**  
 35        **facility operator's successor in interest, to notify the commission in**  
 36        **a timely manner if any of the information described in subsection**  
 37        **(a) with respect to the facility operator's renewable energy facility**  
 38        **changes. The commission shall require a facility operator that has**  
 39        **one (1) or more renewable energy facilities included in the registry**  
 40        **established under subsection (a) to provide an annual report, on a**  
 41        **form prescribed by the commission, providing updated**  
 42        **information on each of the facility operator's renewable energy**

**C**  
**O**  
**P**  
**Y**



1 facilities that is included in the registry.

2 (c) The commission shall not include in the registry any  
3 confidential or proprietary information that:

4 (1) concerns a facility operator or an energy utility, including  
5 the terms of a contract entered into under section 12 of this  
6 chapter between a facility operator and an energy utility; and

7 (2) is:

8 (A) included in a standard contract submitted to the  
9 commission under subsection 12(b) of this chapter; or

10 (B) otherwise made known to the commission.

11 The commission shall exercise all necessary caution to avoid the  
12 disclosure of confidential or proprietary information described in  
13 this subsection.

14 (d) The commission shall update the registry on a timely a basis  
15 upon receiving:

16 (1) a standard contract entered into under section 12(b) of this  
17 chapter; or

18 (2) an annual report or a notice of change in information from  
19 a facility operator under subsection (b).

20 (e) Subject to subsection (c), the commission shall make the  
21 registry established under subsection (a) available:

22 (1) for public inspection and copying at the offices of the  
23 commission under IC 5-14-3; and

24 (2) on the commission's web site.

25 Sec. 25. (a) Beginning in 2010, the state utility forecasting group  
26 shall include in its annual report under IC 8-1-8.8-14 an analysis  
27 of the impact of the following on encouraging the rapid and  
28 sustainable development of renewable energy resources for the  
29 generation of electricity in Indiana:

30 (1) The obligation of grid operators to:

31 (A) provide priority interconnections for renewable energy  
32 facilities;

33 (B) transmit on a priority basis electricity generated by  
34 renewable energy facilities; and

35 (C) perform necessary grid upgrades to enable the  
36 interconnection of renewable energy facilities;

37 under this chapter.

38 (2) The obligation of energy utilities to:

39 (A) enter into long term contracts for the purchase of  
40 electricity generated by renewable energy facilities; and

41 (B) pay for all purchases described in clause (A) on a  
42 statewide equalized basis;

C  
o  
p  
y



under this chapter.

(3) The payment of the renewable energy rates established under this chapter for electricity generated by renewable energy facilities.

(b) In addition to the analysis described in subsection (a), the state utility forecasting group may include in its annual report under IC 8-1-8.8-14 any recommendations for changes in the requirements and policies set forth in this chapter that the group determines would enhance the ability of those requirements and policies to encourage the rapid and sustainable development of renewable energy resources for the generation of electricity in Indiana.

(c) As required by IC 8-1-8.8-14, the commission shall include the state utility forecasting group's annual report under IC 8-1-8.8-14 in the commission's annual report to the regulatory flexibility committee under IC 8-1-2.5-9(b).

SECTION 2. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(b) Notwithstanding IC 8-1-37-22(f), as added by this act, the commission may adopt any rules to implement IC 8-1-37-22, as added by this act, in the same manner as emergency rules are adopted under IC 4-22-2-37.1. Any rules adopted under this SECTION must be adopted not later than January 1, 2010. A rule adopted under this SECTION expires on the earlier of:

(1) the date the rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36 to implement IC 8-1-37, as added by this act; or

(2) January 1, 2011.

(c) This SECTION expires January 1, 2011.

SECTION 3. An emergency is declared for this act.

C  
o  
p  
y

